

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

BROADCAST MUSIC, INC.; E.O. SMITH
MUSIC; RONDOR MUSIC INTERNATIONAL,
INC. d/b/a IRVING MUSIC; BOY MEETS GIRL
MUSIC; EMI VIRGIN SONGS, INC.; SCRAP
METAL MUSIC; SONGS OF UNIVERSAL,
INC.; NIGHT GARDEN MUSIC, A DIVISION
OF R.E.M./ATHENS, LTD.; MOEBETOBLAME
MUSIC; EMI BLACKWOOD MUSIC, INC.;
SONG A TRON MUSIC; SCREEN GEMS-EMI
MUSIC, INC.; MOW B'JOW MUSIC INC.;
SONY/ATV SONGS LLC; CONCORD MUSIC
GROUP, INC. d/b/a JONDORA MUSIC,

Plaintiffs,

v.

RICK'S CLUB AMERICAN, LTD. d/b/a
RICK'S CLUB AMERICAN; and
PAUL COLETT, individually,

Defendants.

Case No. 15-cv-4432

COMPLAINT

Plaintiffs, by their undersigned attorneys, for their Complaint against Defendants Rick's Club American, Ltd. d/b/a Rick's Club American and Paul Colett (collectively, "Defendants"), allege as follows (on knowledge as to Plaintiffs; otherwise on information and belief):

JURISDICTION AND VENUE

1. This is an action for copyright infringement under the United States Copyright Act of 1976, as amended, 17 U.S.C. §§ 101 et seq. (the "Copyright Act"). This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

2. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b) and 1400(a).

THE PARTIES

3. Plaintiff Broadcast Music, Inc. (“BMI”), is a corporation organized and existing under the laws of the state of New York. BMI’s principal place of business is 7 World Trade Center, 250 Greenwich Street, New York, New York 10007. BMI has been granted the right to license the public performance rights in approximately 8.5 million copyrighted musical compositions (the “BMI Repertoire”), including those which are alleged herein to have been infringed.

4. The Plaintiffs other than BMI are the owners of the copyrights in the musical compositions that are the subject of this action. All Plaintiffs are joined pursuant to Fed. R. Civ. P. 17(a) and 19(a).

5. Plaintiff E.O. Smith Music is a sole proprietorship owned by Rivers Cuomo. This Plaintiff is the copyright owner of at least one of the songs in this matter.

6. Plaintiff Rondor Music International, Inc. is a corporation doing business as Irving Music. This Plaintiff is the copyright owner of at least one of the songs in this matter.

7. Plaintiff Boy Meets Girl Music is a partnership owned by Shannon Rubicam and George Robert Merrill. This Plaintiff is the copyright owner of at least one of the songs in this matter.

8. Plaintiff EMI Virgin Songs, Inc. is a corporation. This Plaintiff is the copyright owner of at least one of the songs in this matter.

9. Plaintiff Scrap Metal Music is a partnership owned by John T. Rzeznik, Robert C. Takac, Jr., and George R. Tutuska, Jr. This Plaintiff is the copyright owner of at least one of the songs in this matter.

10. Plaintiff Songs of Universal, Inc. is a corporation. This Plaintiff is the copyright owner of at least one of the songs in this matter.

11. Plaintiff Night Garden Music is a division of R.E.M./Athens, Ltd., a limited company. This Plaintiff is the copyright owner of at least one of the songs in this matter.

12. Plaintiff Moebetoblame Music is a partnership owned by Michael Balzary, John Anthony Frusciante, Anthony Kiedis, and Chad Gaylord Smith. This Plaintiff is the copyright owner of at least one of the songs in this matter.

13. Plaintiff EMI Blackwood Music, Inc. is a corporation. This Plaintiff is the copyright owner of at least one of the songs in this matter.

14. Plaintiff Song A Tron Music is a partnership owned by Allen George and Fred McFarlane. This Plaintiff is the copyright owner of at least one of the songs in this matter.

15. Plaintiff Screen Gems-EMI Music, Inc. is a corporation. This Plaintiff is the copyright owner of at least one of the songs in this matter.

16. Plaintiff Mow B'Jow Music Inc. is a corporation. This Plaintiff is the copyright owner of at least one of the songs in this matter.

17. Plaintiff Sony/ATV Songs LLC is a limited liability company. This Plaintiff is the copyright owner of at least one of the songs in this matter.

18. Plaintiff Concord Music Group, Inc. is a corporation doing business as Jondora Music. This Plaintiff is the copyright owner of at least one of the songs in this matter.

19. Defendant Rick's Club American, Ltd. is a limited company, organized and existing under the laws of the state of New York, that operates, maintains, and controls an establishment known as Rick's Club American located at 100 Lake Road, Congers, NY 10920 (the "Establishment"), in this district.

20. In connection with the operation of the Establishment, Defendant Rick's Club American, Ltd. publicly performs musical compositions and/or causes musical compositions to be publicly performed.

21. Defendant Rick's Club American, Ltd. has a direct financial interest in the Establishment.

22. Defendant Paul Colett is an officer of Defendant Rick's Club American, Ltd. with primary responsibility for the operation and management of that limited company and the Establishment.

23. Defendant Paul Colett has the right and ability to supervise the activities of Defendant Rick's Club American and a direct financial interest in that limited company and the Establishment.

CLAIMS OF COPYRIGHT INFRINGEMENT

24. Plaintiffs repeat and reallege each of the allegations contained in paragraphs 1 through 23.

25. Plaintiffs allege twelve (12) claims of copyright infringement based upon Defendants' unauthorized public performance of musical compositions from the BMI Repertoire. All of the claims for copyright infringement joined in this Complaint are governed by the same legal rules and involve similar facts. Joinder of these claims will promote the convenient administration of justice and will avoid a multiplicity of separate, similar actions against Defendants.

26. Annexed to this Complaint as a schedule (the "Schedule") and incorporated herein is a list identifying some of the many musical compositions whose copyrights were infringed by Defendants. The Schedule contains information on the twelve (12) claims of copyright

infringement at issue in this action. Each numbered claim has the following eight lines of information (all references to “Lines” are lines on the Schedule): Line 1 providing the claim number; Line 2 listing the title of the musical composition related to that claim; Line 3 identifying the writer(s) of the musical composition; Line 4 identifying the publisher(s) of the musical composition and the plaintiff(s) in this action pursuing the claim at issue; Line 5 providing the date on which the copyright registration was issued for the musical composition; Line 6 indicating the copyright registration number(s) for the musical composition; Line 7 showing the date(s) of infringement; and Line 8 identifying the Establishment where the infringement occurred.

27. For each work identified on the Schedule, the person(s) named on Line 3 was the creator of that musical composition.

28. For each work identified on the Schedule, on or about the date(s) indicated on Line 5, the publisher(s) named on Line 4 (including any predecessors in interest), complied in all respects with the requirements of the Copyright Act and received from the Register of Copyrights Certificates of Registration bearing the number(s) listed on Line 6.

29. For each work identified on the Schedule, on the date(s) listed on Line 7, Plaintiff BMI was (and still is) the licensor of the public performance rights in the musical composition identified on Line 2. For each work identified on the Schedule, on the date(s) listed on Line 7, the Plaintiff(s) listed on Line 4 was (and still is) the owner of the copyright in the respective musical composition listed on Line 2.

30. For each work identified on the Schedule, on the date(s) listed on Line 7, Defendants publicly performed and/or caused to be publicly performed at the Establishment the musical composition identified on Line 2 without a license or permission to do so. Thus, Defendants have committed copyright infringement.

31. The specific acts of copyright infringement alleged in the Complaint, as well as Defendants' entire course of conduct, have caused and are causing Plaintiffs great and incalculable damage. By continuing to provide unauthorized public performances of works in the BMI Repertoire at the Establishment, Defendants threaten to continue committing copyright infringement. Unless this Court restrains Defendants from committing further acts of copyright infringement, Plaintiffs will suffer irreparable injury for which they have no adequate remedy at law.

WHEREFORE, Plaintiffs pray that:

(I) Defendants, their agents, servants, employees, and all persons acting under their permission and authority, be enjoined and restrained from infringing, in any manner, the copyrighted musical compositions licensed by BMI, pursuant to 17 U.S.C. § 502;

(II) Defendants be ordered to pay statutory damages pursuant to 17 U.S.C. § 504(c);

(III) Defendants be ordered to pay costs, including a reasonable attorney's fee, pursuant to 17 U.S.C. § 505; and

(IV) Plaintiffs have such other and further relief as is just and equitable.

Dated: June 8, 2015
New York, New York

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Schedule

Line 1	Claim No.	1
Line 2	Musical Composition	Buddy Holly
Line 3	Writer(s)	Rivers Cuomo
Line 4	Publisher Plaintiff(s)	Rivers Cuomo, an individual dba E.O. Smith Music
Line 5	Date(s) of Registration	3/20/96
Line 6	Registration No(s).	PA 787-867
Line 7	Date(s) of Infringement	4/11/2015
Line 8	Place of Infringement	Rick's Club American

Line 1	Claim No.	2
Line 2	Musical Composition	I Wanna Dance With Somebody Who Loves Me a/k/a Somebody Who Loves Me
Line 3	Writer(s)	George Merrill; Shannon Rubicam
Line 4	Publisher Plaintiff(s)	Rondor Music International, Inc. d/b/a Irving Music; Shannon Rubicam and George Robert Merrill, a partnership d/b/a Boy Meets Girl Music
Line 5	Date(s) of Registration	11/10/86 6/15/87 6/30/87
Line 6	Registration No(s).	PAu 901-755 PA 343-550 PAu 985-995
Line 7	Date(s) of Infringement	4/12/2015
Line 8	Place of Infringement	Rick's Club American

Line 1	Claim No.	3
Line 2	Musical Composition	Iris
Line 3	Writer(s)	John Rzeznik
Line 4	Publisher Plaintiff(s)	EMI Virgin Songs, Inc.; John T. Rzeznik, Robert C. Takac, Jr. and George R. Tutuska, Jr., a partnership dba Scrap Metal Music
Line 5	Date(s) of Registration	6-3-98
Line 6	Registration No(s).	PA 900-647
Line 7	Date(s) of Infringement	4/11/2015
Line 8	Place of Infringement	Rick's Club American

Line 1	Claim No.	4
Line 2	Musical Composition	It's Not Unusual
Line 3	Writer(s)	Gordon Mills; Les Reed
Line 4	Publisher Plaintiff(s)	Songs of Universal, Inc.
Line 5	Date(s) of Registration	3/1/65
Line 6	Registration No(s).	Ef 29774
Line 7	Date(s) of Infringement	4/11/2015
Line 8	Place of Infringement	Rick's Club American

Line 1	Claim No.	5
Line 2	Musical Composition	Losing My Religion
Line 3	Writer(s)	William T. Berry; Peter Lawrence Buck; Mike Mills; Michael Stipe
Line 4	Publisher Plaintiff(s)	Night Garden Music, A Division of R.E.M./Athens, Ltd.
Line 5	Date(s) of Registration	7/31/91
Line 6	Registration No(s).	PA 541-342
Line 7	Date(s) of Infringement	4/11/2015
Line 8	Place of Infringement	Rick's Club American

Line 1	Claim No.	6
Line 2	Musical Composition	Scar Tissue
Line 3	Writer(s)	Anthony Kiedis; Michael Balzary; Chad Smith; John Frusciante
Line 4	Publisher Plaintiff(s)	Michael Balzary, John Anthony Frusciante, Anthony Kiedis and Chad Gaylord Smith, a partnership d/b/a Moebetoblame Music
Line 5	Date(s) of Registration	4-5-99
Line 6	Registration No(s).	PAu 2-391-891
Line 7	Date(s) of Infringement	4/11/2015
Line 8	Place of Infringement	Rick's Club American

Line 1	Claim No.	7
Line 2	Musical Composition	Show Me Love
Line 3	Writer(s)	Allen George; Fred Mc Farlane
Line 4	Publisher Plaintiff(s)	EMI Blackwood Music, Inc.; Allen George and Fred Mc Farlane, a partnership d/b/a Song A Tron Music
Line 5	Date(s) of Registration	3/24/95
Line 6	Registration No(s).	PA 752-568
Line 7	Date(s) of Infringement	4/12/2015
Line 8	Place of Infringement	Rick's Club American

Line 1	Claim No.	8
Line 2	Musical Composition	Song 2
Line 3	Writer(s)	Damon Albarn; Graham Coxon; David Rowntree; Steven Alexander James
Line 4	Publisher Plaintiff(s)	EMI Blackwood Music, Inc.
Line 5	Date(s) of Registration	7/3/97 8/6/98
Line 6	Registration No(s).	PA 781-334 PA 906-749
Line 7	Date(s) of Infringement	4/11/2015
Line 8	Place of Infringement	Rick's Club American

Line 1	Claim No.	9
Line 2	Musical Composition	Strangers In The Night
Line 3	Writer(s)	Bert Kaempfert; Charles Singleton; Eddie Snyder
Line 4	Publisher Plaintiff(s)	Songs of Universal, Inc.; Screen Gems-EMI Music, Inc.
Line 5	Date(s) of Registration	4/14/66 6/1/66
Line 6	Registration No(s).	Eu 930986 Ep 217595
Line 7	Date(s) of Infringement	4/11/2015
Line 8	Place of Infringement	Rick's Club American

Line 1	Claim No.	10
Line 2	Musical Composition	Two Princes
Line 3	Writer(s)	Christopher Barron p/k/a Spindocter; Eric Schenkman p/k/a Spindocter; Mark White p/k/a Spindocter; Aaron Comess p/k/a Spindocter
Line 4	Publisher Plaintiff(s)	Mow B'Jow Music Inc.; Sony/ATV Songs LLC
Line 5	Date(s) of Registration	11/22/92
Line 6	Registration No(s).	PA 593-765
Line 7	Date(s) of Infringement	4/11/2015
Line 8	Place of Infringement	Rick's Club American

Line 1	Claim No.	11
Line 2	Musical Composition	Under The Bridge
Line 3	Writer(s)	Anthony Kiedis; Michael Balzary a/k/a Flea; Chad Smith; John Frusciante
Line 4	Publisher Plaintiff(s)	Michael Balzary, John Anthony Frusciante, Anthony Kiedis and Chad Gaylord Smith, a partnership d/b/a Moebetoblame Music
Line 5	Date(s) of Registration	3/9/92
Line 6	Registration No(s).	PA 561-586
Line 7	Date(s) of Infringement	4/11/2015
Line 8	Place of Infringement	Rick's Club American

Line 1	Claim No.	12
Line 2	Musical Composition	Who'll Stop The Rain
Line 3	Writer(s)	John C. Fogerty
Line 4	Publisher Plaintiff(s)	Concord Music Group, Inc. d/b/a Jondora Music
Line 5	Date(s) of Registration	1/12/70 2/16/70
Line 6	Registration No(s).	Eu 156192 Ep 271324
Line 7	Date(s) of Infringement	4/11/2015
Line 8	Place of Infringement	Rick's Club American
